

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Richard B. Lucientes,

Civil No. 09-760 (RHK/AJB)

Petitioner,

ORDER

v.

Warden Dwight L. Fondren,

Respondent.

It now appearing to the Court that Magistrate Judge Arthur J. Boylan's August 28, 2009 Report and Recommendation (Doc. No. 8) was never served upon or otherwise furnished to Petitioner, the Court's Order adopting the Report and Recommendation (Doc. No. 9) is **VACATED**. The Clerk of Court is directed to mail a copy of the Report and Recommendation to the Petitioner at his last known address.

Pursuant to Local Rule 72.2(b), Petitioner may object to the Report and Recommendation by filing with the Clerk of Court and by serving upon all parties written objections that specifically identify the portions of the Report to which objections are made and the basis of each objection. The Report and Recommendation does not constitute an order or judgment from the District Court and it is therefore not directly appealable to the Circuit Court of Appeals. Written objections must be filed with the Court before **October 15, 2009**.

Dated: September 24, 2009

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge